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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/801,495	03/08/2001	Christopher Keith	IVEN125466	4755
52531	7590	07/17/2006	EXAMINER	
CHRISTENSEN O'CONNOR JOHNSON KINDNESS PLLC 1420 FIFTH AVENUE SUITE 2800 SEATTLE, WA 98101-2347				WEISBERGER, RICHARD C
ART UNIT		PAPER NUMBER		
		3693		

DATE MAILED: 07/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/801,495	KEITH, CHRISTOPHER
	Examiner	Art Unit
	Richard C Weisberger	3624

**– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –**

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Statys

1)  Responsive to communication(s) filed on 2-27-2006.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-14, 17-20 and 25-31 is/are pending in the application.  
4a) Of the above claim(s) 1-9 and 25-30 is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 10-14 and 17-20 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_ .

***Election/Restrictions***

1. Applicant's election with traverse of Group II in the reply filed on 2-27-2006 is acknowledged. The traversal of the restriction between groups II and II is on the ground(s) that the prior office action did not "distinguish the utility" between the two groups. In reply thereto, the inventions of groups II and II are patentably distinct. The inventions are combinations that are separately usable. For example, the method of claim 10, routes an order in accordance with a set of conditional rules. In one embodiment, the rules can be that directed to the risk of the trade (e.g., stop loss provisions). This invention has separate utility from that of Group III which routes an order in accordance with an action list. The action list could read on an input from the exchange (e.g., margin requirements). Thus, the inventions have separate utility.

The requirement is still deemed proper and is therefore made FINAL.

2. This application contains claims 1-9 and 25-30 drawn to an invention nonelected with traverse in mailed 2-27-2006. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

***Claim Rejections - 35 USC § 112***

3. Claims 12 and 17-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The limitation "relationships represented by a set of codes" is indefinite. How does this limitation limit the conditional rules?

The invention of claims 17-20 are indefinite. The “discovery strategy” is indefinite as to its scope. That is, the general algorithm of a discovery strategy is unclear. The limitation of a market not subject to SEC regulation is indefinite in that SEC regulations are not fixed.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 10 rejected under 35 U.S.C. 102(e) as being anticipated by

PCT/US00/10803.

6. The reference teaches the limitations of claims 10 and 31 (page 4, lines 19+, figure 9). Further, it teaches the element of claim 11 (figure 9/704-706). It further teaches claim 12 to which the examiner reads “codes” to be rules and conditions of the exchanges. The examiner takes official notice that exchanges set forth rules and condition for front end software providers. It further teaches the invention of claim 13 and 14 (page 14, lines 19-31). The reference teaches the inventions of claims 17-20 including the discovery strategy and action strategy read which read on a the subject matter discussed at page 15, II. 26-32.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard C Weisberger whose telephone number is 571 272 6753. The examiner can normally be reached during the hours of maxifiles.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vince Millin can be reached on 571 272 6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Richard C. Weisberger  
Primary Examiner  
Art Unit 3624